

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	17 th Sept 2020
Planning Development Manager authorisation:	SCE	18.09.2020
Admin checks / despatch completed	DB	18/09/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	18/09/2020

Application: 19/01267/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Paul Dupuy

Address: 2A Napier Avenue Jaywick Clacton On Sea

Development: Replacement commercial building (retrospective).

1. Town / Parish Council

Not applicable

2. Consultation Responses

Environment Agency 28th October 2019:-

We are raising a holding objection to this application on flood risk grounds as a Flood Risk Assessment (FRA) has not been submitted. The application does not therefore comply with the National Planning Policy Framework (NPPF).

Flood Risk

Our maps show the application site partially lies within Flood Zones 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding respectively. Paragraph 163, footnote 50 of the NPPF requires applicants for planning permission to submit a site-specific FRA when development is proposed in such locations.

An FRA is vital if you are to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Overcoming our Objection

The applicant can overcome our objection by undertaking an FRA that demonstrates that the development is safe without increasing risk elsewhere and, where possible, reduces flood risk overall. If this cannot be achieved, we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

Environment Agency 8th September 2020

Thank you for your consultation received 19 August 2020, we have reviewed the plans as proposed and we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility.

3. Planning History

01/00570/FUL	Retention of single storey building used as a glazing workshop.	Approved	31.08.2001
19/01267/FUL	Replacement commercial building.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PP14 Priority Areas for Regeneration

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation,

the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

5. Officer Appraisal

Site Description

The plot is of a similar size, at around 115sqm, and shape to others in the locale. Unlike other plots which contain dwellings; the site contains a small single storey structure which has a commercial use. The existing structure was approved retrospectively in 2001 primarily with a Light Industrial Use being a glazing workshop.

The site lies in Flood Zone 3 which is defined as an area at a high-risk (at least once in every 100 years) of experiencing a significant flooding event.

Description of Proposal

The application seeks retrospective planning permission for the structure that was built in May 2019, replacing that built in 2001. The historic structure was sited immediately behind the front boundary wall, had a flat felt roof in the region of 1.8m high and a footprint in the region of 14.5sqm.

The replacement building is set much further back in to the site (around 5.5m) which makes space for two off-street parking spaces following removal of the unsightly front boundary wall.

Externally the building is constructed in a dark-coloured horizontal timber weatherboard with white uPVC window-frames. There is a small area of decking down the right hand side that leads to the front entrance. This decking is not annotated on the floor plans but was viewed during the site visit.

The building has a much larger footprint than the one it replaced, however this appears to be as a result of replacing all of the building on the site. The replaced footprint is in the region of 39.5sqm with a flat roof being in the region of 2.6m high. Internally the structure comprises one reception area/office and two studio/workshops and it is proposed to use the building as a photographic studio which employs one person between the hours of 09:00am and 18:00pm.

Assessment

Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Layout, Scale and Appearance:

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

The external appearance offers a significant improvement over the rather ramshackle buildings it replaced and, by setting the building back from the front boundary it opens up the site by removing the unsightly front boundary wall.

Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The replacement commercial building, which will be occupied during the hours of 09.00am to 18.00 has side facing windows and is of a height (2.6m) only marginally higher than a typical boundary 2m boundary fence. For these reasons, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Highway Considerations:

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The proposal is situated off Napier Avenue which is approximately 2.5 metres in width. The application states that the current parking arrangements are to be retained for the commercial. The information that was submitted in association with the application has been fully considered by the Highway Authority and they raise no objection to the proposal.

Flooding:

When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be

safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

As the proposed footprint (at 49sqm) is less than 250sqm it is defined as a minor development. Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.

A site-specific flood risk assessment has been provided.

6. **Recommendation**

Approval – Full

7. **Conditions**

- 1 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the premises shall be used as a Photographic Studio and for no other purpose within Class E.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

8. **Informatives**

Positive & Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO